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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,992	12/30/2003	Jaimee Terese Simone	C6663(C)	6575
UNILEVER PATENT DEPARTMENT 45 RIVER ROAD EDGEWATER, NJ 07020			EXAMINER HYLTON, ROBIN ANNETTE	
			ART UNIT 3727	PAPER NUMBER

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/747,992

Applicant(s)

SIMONE ET AL.

Examiner

Robin A. Hylton

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-11 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11 and 14-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 2,4-11, and 14 are objected to because of the following informalities: "label covering" should be used consistently throughout the claims. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1,2,4-8,10, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Burghaus et al. (US 6,605,342).

Closure **19** (or **36**) has a peripheral skirt and a ceiling, the skirt having an outer surface covered by a label having a thickness of 100 μm (which is within the range of about 2 to about 12 mil) and having a soft feel material on an outermost covering (column 2, lines 6 and 7).

Burghaus is silent regarding the specifics of the bottle and closure except that the closed bottle typically contains shampoo and the bottle is elastically deformable. The reference also discloses the labels are utilized on the bottle and closure to provide a non-slip surface. Thus, the material of the closure of Burghaus is different from that of the label covering or the label covering would not be necessary.

Claim Rejections - 35 USC § 103

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burghaus.

Official notice is taken that bottles and associated closures are known in the art to be formed of any plastic material including polypropylene, polyethylene, or other elastically deformable plastic materials.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the closure of any of the claimed plastic material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

It is noted applicant did not traverse this ground of rejection in response to the previous Office action. Thus, this statement is considered to be admitted prior art.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burghaus.

Burghaus teaches the claimed closure except for the label covering covering 100% of the outer surface of the peripheral skirt.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to cover 100% of the outer surface of the peripheral skirt with the label covering, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. Doing so eliminates any possible slippage of the closure out of the user's grasp.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burghaus.

Burghaus teaches the claimed closure except for the label covering being of a different color than the closure ceiling. Burghaus does teach the label covering can have imprint.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the label covering of a different color than the closure to allow one

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to easily discern the label covering is present and any imprint or other markings on the label covering.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burghaus.

Burghaus teaches the claimed closure except for the soft feel material having a Shore A or Shore D hardness ranging from 35 to 80.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select a soft feel material having a Shore A or Shore D hardness ranging from 35 to 80 as desired for the resiliency, deformability and grippability of the material.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burghaus in view of Baar (US 2,394,135).

Burghaus teaches the claimed label covering except for it comprising two separate labels.

Baar teaches it is known to provide a one-piece closure covering (figure 1), two separate closure coverings (figure 8), or more than two closure coverings (figure 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the label covering of Burghaus of two separate coverings as taught by Baar. Doing so allows for providing two different imprints simultaneously on the closure.

10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foulkes (US 5,868,986).

Burghaus teaches the claimed closure except for the label covering being an in-mold label.

Foulkes teaches it is known to provide in-mold labels to polymeric articles.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of an in-mold label covering to the closure of Burghaus. Doing so

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allows for the closure to be labeled in the molding process to allow for a more effective engagement between the label covering and closure and reduces the risk of separation or distortion of the label covering during use of the closure.

Response to Arguments

11. Applicant's arguments with respect to claims 1, 2 4-11, and 14-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

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14. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature _____

Date _____

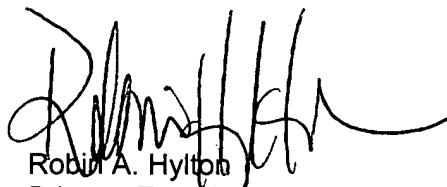
15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAH
October 12, 2005


Robin A. Hylton
Primary Examiner
GAU 3727